

Know It Show It

Equality, Diversity and Inclusion

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Course objectives

- Consider what diversity and inclusion means for your organisation and the services you provide
- Identify the benefits and challenges for your organisation of promoting equality, diversity and inclusion
- Know about your organisation's legal obligations in relation to the provision of services under the Equality Act 2010
- Identify barriers to participation for excluded groups (as service users and volunteers), and discuss potential solutions
- Have identified realistic actions to take forward within your organisation.

Agenda

- Definitions of EDI
- Vision for EDI
- Benefits and challenges
- Equality Act 2010 (protected characteristics, types of discrimination, exceptions)
- Identifying discrimination – case studies
- Diversity monitoring – challenges & solutions
- Barriers to participation & solutions
- Action planning



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Definitions

- What are equality, diversity and inclusion?
Are they different?
 - Diversity: valuing and respecting differences between people and taking these on board within your organisation
 - Equalities: ensuring fairness, equality and social justice within your policies and practices
 - Inclusion: people retain their identities but adapt to each other while respecting each others' needs and wishes

Volunteering

‘Civic core’ makes up 36% of the population but accounts for 87% of all volunteering hours

- middle-aged,
- well-educated (34% have a degree or higher vs 17% of non-core engaged / 11% of disengaged)
- well paid jobs (51% earn a high salary vs 32% of non-core engaged / 18% of disengaged).

Third Sector Research Centre

Vision

What does a 'diverse and inclusive' organisation look like for you?

1. What are your current levels of diversity?
2. In 3-5 years, what would be different (clients, services, volunteers, staff, trustees)?

Be as specific as possible.

I will ask 2-3 people to share.

Benefits and challenges

- What are the benefits of striving for equality, diversity and inclusion?
- And the challenges?

Benefits

- Better meet the needs of the whole community
- Facilitate each individual to become involved, whatever their needs
- Benefit from new ideas and fresh approaches generated by people from different backgrounds and experiences
- Help ensure that your work is relevant to and impacts on all kinds of people in society
- Present a more welcoming face to volunteers, client groups and the general public
- Help promote the inclusion of groups who may feel they are on the margins of society
- Attract new volunteers, clients or service users
- Be better equipped to respond to the needs of your community or service users

Challenges

- Don't know how to reach out
- Don't know about our current diversity
- Lack of time
- Lack of connections in under-represented communities
- Limited volunteer roles currently on offer
- Our services currently don't appeal to some groups

The Equality Act 2010

Quiz!



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1. 9
2. Sexual orientation, pregnancy and maternity, Marriage and civil partnership
3. C - No, it is still discrimination if I think that someone shares a particular protected characteristic, whether or not they actually do
4. B - No, because it is possible to justify direct age discrimination, as long as there is an objective justification.
5. B - No, the test also includes the need to show a long term adverse effect
6. B - No, the Act is also about ensuring that men and women are treated equally. There is also protection for married persons, pregnant women, and transgender people. It is true that one motivation of the Act, in relation to gender, was, and is, to stop the unequal treatment of women, but the Act does also offer protection to others, including men
7. C - yes, because, as was stated in the Court of Appeal, it was appropriate to give a broad meaning to the expression 'racial grounds'. It was an expression that should be capable of covering any reason or action based on race. The phrase used in the Equality Act 2010 is 'because of race' but no difference in meaning was intended by Parliament on this point.
8. B - The Act applies to a sexual orientation towards persons of the same sex; persons of the opposite sex; and persons of the same sex and opposite sex.

Protected characteristics

1. Age
2. Disability
3. Race
4. Religion or belief
5. Sex
6. Gender reassignment
7. Sexual orientation
8. Marriage and civil partnership
9. Pregnancy and maternity

Types of discrimination (1)

Direct discrimination: “treating one person less favourably than another in similar circumstances on the grounds of a protected characteristic”

Associative discrimination: “direct discrimination against someone because they are associated with another person on the basis of that person’s protected characteristic”

Types of discrimination (2)

Discrimination by perception: “direct discrimination against someone because others think they share a particular protected characteristic, whether or not they actually do”

Indirect discrimination: “applying a provision, rule, criteria or practice which appears to be neutral but, intentionally or not, puts some groups or individuals at a disadvantage”

Types of discrimination (3)

Victimisation: “treating someone less favorably because they have made a complaint about unlawful discrimination, have supported one, are intending to, or are perceived to have made one”

Harassment: “Unwanted behaviour that has the purpose or effect of violating a person’s dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment, related to their particular characteristics”

Types of discrimination (4)

Discrimination arising from disability: “treating someone with a disability unfavorably due to something connected with the disability (rather than direct discrimination)”

Liability of employers

Employers are liable for acts of unlawful discrimination carried out by employees and volunteers

- Whether or not they knew
- Whether or not they approved
- Unless they take practicable steps to prevent this

Anticipatory duty:

- Don't wait until a disabled person wants to use the service.
- Must think in advance about what people with a range of **impairments** might reasonably need, e.g visual impairment, hearing impairment, mobility impairment, learning disability.
- Must make the adjustments as quickly as possible

Objective justification

A proportionate means of achieving a legitimate aim

Proportionate: must be **appropriate** and **necessary**, there are no better and less discriminatory ways of achieving aim; the importance of the aim outweighs the discriminatory effects of the unfavourable treatment

Examples of legitimate aims:

- the health, safety and welfare of individuals
- running an efficient / effective service

Saving money alone is not enough to justify discrimination

Allowed only in certain situations:

- indirect discrimination
- discrimination arising from a disability
- direct age discrimination

Services for particular groups

- If you normally supply **services only for people with a particular protected characteristic** (e.g a particular ethnic background or gay men), you can carry on providing the service the same way. You can refuse to provide the service to someone who does not have that characteristic if you can objectively justify it.
- You are allowed to provide **separate services for men and women** where providing a joint service (ie one where men and women are provided with exactly the same service) would not be as effective (objectively justified) or to preserve privacy and decency.

Exceptions for charities

- Charities can restrict their benefits to people with a particular protected characteristic if:
 - that is included in their charitable instrument (objects) ***and either***
 - it is objectively justified, or
 - it is done to prevent or compensate for disadvantage linked to the protected characteristic.
- Cannot restrict services on the basis of a person's colour, such as 'black' or 'white'

Exceptions for charities (2)

- An **event or activity** held to promote or support a charity can be restricted to one sex only.
- **Membership:** can ask someone to make a statement to say or imply that they are a member of a particular religion or belief, or accept that religion or belief in order to become a member of the charity. Can refuse members access to benefits if they do not accept that religion or belief. But only if this requirement existed since before 18 May 2005

Exceptions for religion and belief organisations

- Whose **purpose** is to practice, promote or teach a religion or belief
- Religious acts of worship not covered by equality law at all
- Services - something a person or organisation does for the public or a section of the public.
- In relation to a service user's (or would-be service user's) religion or belief, the exception only applies where a restriction is necessary:
 - to comply with the purpose of the religion or belief organisation, or
 - to avoid causing offence to members of the religion or belief that the organisation represents.

Exceptions for religion and belief organisations (2)

- In relation to **sexual orientation**, the exception only applies where it is necessary:
 - to comply with the doctrine of the organisation, or
 - in order to avoid conflict with the strongly held convictions of a significant number of the members of the religion or belief that the organisation represents.
- Separate or single-sex services provided by ministers (criteria)
- If contracted by a public body to carry out an activity on that body's behalf, the organisation cannot discriminate because of sexual orientation in relation to that activity.

Positive action

Allowed where people who share a protected characteristic:

- suffer a disadvantage connected to that characteristic; or
- have needs that are different from people who do not share the characteristic; or
- Participation rates in an activity are disproportionately low

Service user rights

- Right to be free from discrimination, harassment and victimisation
- <https://www.equalityhumanrights.com/en/publication-download/your-rights-equality-voluntary-and-community-sector-organisations-including>

Volunteer rights and responsibilities

- If there is an implied contract, volunteers could claim the same rights as employees
- If not, it is possible that when you are providing a volunteering opportunity for someone, this counts as providing them with a service.
- If they break equality law by unlawfully discriminating against a client or service user, both volunteer and the organisation could be held legally responsible

The Human Rights Act 1998

- a list of 16 rights (called Articles)
- belong to all people in the UK, regardless of being a British citizen or a foreign national, a child or an adult, a prisoner or a member of the public
- Article 14 - no discrimination when applying the other protections in the Act, on any grounds (sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or any other status which would include sexual orientation, gender identity/reassignment status, marital status, pregnancy or maternity status or disability)



Right to life
(Article 2)



Right not to be tortured or treated in an inhuman or degrading way
(Article 3)



Right to be free from slavery or forced labour
(Article 4)



Right to liberty
(Article 5)



Right to a fair trial
(Article 6)



Right not to be punished for something which wasn't against the law when you did it
(Article 7)



Right to respect for private and family life, home and correspondence
(Article 8)



Right to freedom of thought, conscience and religion
(Article 9)



Right to freedom of expression
(Article 10)



Right to freedom of assembly and association
(Article 11)



Right to marry and found a family
(Article 12)



Right not to be discriminated against in relation to any of the human rights listed here
(Article 14)



Right to peaceful enjoyment of possessions
(Article 1, Protocol 1)



Right to education
(Article 2, Protocol 1)



Right to free elections
(Article 3, Protocol 1)



Abolition of the death penalty
(Article 1, Protocol 13)

Further resources and guidance

- [How to use the Equality Act 2010: A guide for voluntary and community organisations](#)
- <https://www.citizensadvice.org.uk/law-and-courts/discrimination/>
- <https://www.bihr.org.uk/information-on-the-human-rights-act>
- Associations:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85051/vcs-associations.pdf
-

Identifying discrimination – case studies

Is this unlawful discrimination?

If so, what is the protected characteristic and what type of discrimination (e.g. direct, indirect, etc)

<p>You take twice as long to make a decision about whether to take on a person with a visual impairment as a client</p>	<p>Direct discrimination, disability. Anticipatory duty.</p>
<p>A member of staff mistakenly thinks a woman is a transsexual person. Because of this they tell her their voluntary organisation's activities are not open to her.</p>	<p>Direct discrimination by perception, because of gender reassignment, even though she is not a transsexual person.</p>
<p>A community organisation runs a lunch club and has a 'no dogs' rule. They bar a disabled person who uses an assistance dog,</p>	<p>Discrimination arising from disability (not because of their disability but because they have a dog with them) unless the organisation can objectively justify what it has done.</p>
<p>The organisation stops offering home visits to a disabled person, when it finds out he has a mental health condition which means he can be aggressive and rude to staff. Other clients continue to receive home visits.</p>	<p>Likely to be unlawful disability discrimination. Can set standards of behaviour for clients but they must not have a worse impact on people with a particular protected characteristic (indirect discrimination), unless you can objectively justify it.</p>

<p>A service user supports another person's complaint that a charity has unlawfully discriminated against them. The service user is later told that they cannot continue to use the services from the charity.</p>	<p>If this is because of their part in supporting the complaint, this is likely to be victimisation.</p>
<p>A voluntary sector group that exists to promote health through physical activity runs separate taster sessions at a local swimming pool for women as well as mixed sessions, because they have discovered that significant numbers of women would not attend a mixed session because of the presence of men.</p>	<p>Equality law allows this provided the organisation can show that a combined service would not be as effective, it would not be reasonably practicable to provide the service except in the different ways, and that what it is doing is objectively justified.</p>
<p>A charity which runs a drop-in centre decides to apply a 'no hats or other headgear' rule to all users. Sikhs, Jews, Muslims and Rastafarians who cover their heads as part of their religion are not allowed to use the drop-in centre.</p>	<p>Unless the charity can objectively justify using the rule, this will be indirect discrimination – religion or belief</p>

<p>A religious group has a contract with a local authority to provide day care for children. The group refuses to accept a child of a gay couple as this conflict with the strongly held convictions of a significant number of the members of the religion or belief that the organisation represents.</p>	<p>Direct discrimination by association If a religion or belief organisation contracts with a public body to carry out an activity on that body's behalf, the organisation cannot discriminate because of sexual orientation in relation to that activity.</p>
<p>A voluntary organisation provides free travel to disabled people who want to attend its events, but not to non-disabled people.</p>	<p>This would be lawful. Equality law allows you to treat disabled people more favourably than non-disabled people. The aim of the law in allowing this is to remove barriers that disabled people would otherwise face to accessing services.</p>

Diversity monitoring

Gathering information about protected characteristics

- What are the benefits?
- What are the challenges?

Diversity monitoring - benefits

- knowing we have reached a range of people
- assessing the impact policies and practices have on different people
- levels of satisfaction and other outcomes
- see if practices are providing fair access and opportunities for all
- reducing inequalities
- addressing barriers

Diversity monitoring - challenges

- intrusion or invasion of privacy
- fear of causing offence
- doubts about relevance
- will we actually use it?
- Data security (special category data)

Diversity monitoring guidance

- Guide to diversity monitoring and data collection:

<https://new.devon.gov.uk/equality/performance-and-monitoring/diversitymonitoring>

- Example monitoring forms

Needs and barriers to participation in services

What groups do you want to focus on?

Choose from the 9 protected characteristics, but also could be wider.

Barriers and solutions

1. What are the **needs and barriers to participation** in services for the ‘excluded’ group?

2. What are possible **solutions** to the above barriers?
(note: aim for low-cost and time-effective solutions).

Solutions could be at several levels:

- planning/service design level (link to Theory of Change)
- practical day-to-day service delivery level
- internal (e.g. recruiting diverse staff and volunteers)
- external (Communications, images etc)

Resources and information

- Diversity proofing checklist (handout)
- [LGBT+ volunteers factsheet \(VCTH\)](#)
- [Volunteers age 50+ factsheet \(VCTH\)](#)
- [Session plan ideas for groups of young people](#)
- [Gypsy and traveller communities \(Citizens Advice\)](#) and [Shelter](#)
- [LGBTQ mental health good practice guide \(Mind\)](#)
- Ex offenders (Clinks)
- [Equalities and diversity proofing checklist](#)
- [Discrimination and mental health \(Rethink\)](#)
- [Providing services for transgender customers: a guide](#)

Action planning

What actions will you take as a result of this training?

Areas could be:

- Diversity audit, vision for EDI, EDI policy statement, equalities monitoring, further research on needs/barriers, outreach to excluded groups, develop partnerships, training for staff, volunteer recruitment, volunteer training, data protection etc.



Next steps

- 1-1 support starting in January
- Theory of Change training (31st January, 10am to 1pm)



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